

AMENDED IN ASSEMBLY AUGUST 23, 2001

AMENDED IN ASSEMBLY JULY 19, 2001

SENATE BILL

No. 734

Introduced by Senator Karnette

February 23, 2001

An act to amend ~~Section~~ *Sections* 285, 286, 296, 297, 331, 331.1, 331.2, 672, and 9250.15 of, and to add Sections 4004.7, 8058, 9259.3, and 9259.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 734, as amended, Karnette. Vehicles: *trailers*: registration: International Registration Plan.

(1) *Existing law defines various terms for purposes of regulating and licensing vehicle dealers, distributors, franchises, and manufacturers.*

This bill would include in those definitions trailers that are subject to identification.

To the extent that the inclusion of trailers within the scope of these definitions would have the effect of expanding the scope of licensing requirements, violations of which are currently crimes, this bill would impose a state-mandated local program by expanding the scope of a crime.

(2) Existing law authorizes the Reciprocity Commission, on behalf of the state, to enter into, and become, a member of the International Registration Plan Agreement developed by the American Association of Motor Vehicle Administrators. The commission is authorized to adopt rules and regulations necessary to carry out the provisions of the International Registration Plan or other apportioned registration agreements entered into under the authority of existing law. In

administering the International Registration Plan, the state is authorized to collect all appropriate registration and license fees due other jurisdictions, and foreign jurisdictions that are members of the agreement are authorized to collect all appropriate registration and license fees due to California and remit those fees to the state pursuant to the terms of the agreement. The Department of Motor Vehicles is authorized to collect an administrative service fee of \$1 for each application for apportioned registration.

This bill would authorize the department to issue a permit to authorize the unladen operation of that vehicle or vehicle combination for a period of not more than 15 continuous days, if the apportioned registration for a commercial vehicle or vehicle combination that was last registered by a California resident has expired or been terminated, and the department has received a completed application, a fee of \$30, and proof of financial responsibility for the vehicle. This provision would not apply to any vehicle or vehicle combination for which any vehicle registration fees, other than those for the current year, vehicle license fees, or penalties, or any combination of those are due. Operation of a laden vehicle or vehicle combination under an unladen operation permit issued pursuant to this provision would be an infraction. The bill thereby would impose a state-mandated local program by creating a new crime.

The bill would require the department to charge interest on any underpaid fees due under the apportioned registration provisions, at the rate of 1% per month of the underpaid portion of the fees, commencing on the date the underpaid portion of the fees were originally due. Interest charged would continue to accumulate during any disputation or hearing regarding the fees, except that the registrant would be authorized to pay underpaid fees and other charges during the disputation process or hearing, in order to avoid additional interest charges, and request a refund of any overpaid fees after final review.

The bill would require the department to impose a penalty of \$50 or 10% of the ~~or~~ underpaid fees, whichever is greater, commencing on the date the underpaid fees were determined to be due.

The bill would require the administrative service fee specified above to be at least the amount determined by the department to be sufficient to pay membership dues to the association acting as the repository for the International Registration Plan, but not more than \$2 for each application.



The bill would require the department to require a deposit in an amount determined by the department to be sufficient to ensure compliance with the apportioned registration provisions, for each application to include an additional operating area or vehicle in a registration issued under those provisions.

The bill would require the department to impose a fee in an amount determined by the department to be sufficient to cover its administrative costs under this provision, for each application for immediate telephone service for a registration issued under the apportioned registration provisions.

~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 285 of the Vehicle Code is amended to*
2 *read:*

3 285. "Dealer" is a person not otherwise expressly excluded
4 by Section 286 who:

5 (a) For commission, money, or other thing of value, sells,
6 exchanges, buys, or offers for sale, negotiates or attempts to
7 negotiate, a sale or exchange of an interest in, a vehicle subject to
8 registration ~~or~~, a motorcycle subject to identification under this
9 code, *or a trailer subject to identification pursuant to Section*
10 *5014.1*, or induces or attempts to induce any person to buy or
11 exchange an interest in a vehicle and, who receives or expects to
12 receive a commission, money, brokerage fees, profit, or any other
13 thing of value, from either the seller or purchaser of ~~said the~~
14 vehicle; ~~or~~

15 (b) Is engaged wholly or in part in the business of selling
16 vehicles or buying or taking in trade, vehicles for the purpose of
17 resale, selling, or offering for sale, or consigned to be sold, or



1 otherwise dealing in vehicles, whether or not ~~such~~ *the* vehicles are
2 owned by ~~such~~ *the* person.

3 *SEC. 2. Section 286 of the Vehicle Code is amended to read:*

4 286. The term “dealer” does not include any of the following:

5 (a) Insurance companies, banks, finance companies, public
6 officials, or any other person coming into possession of vehicles
7 in the regular course of business, who sells vehicles under a
8 contractual right or obligation, in performance of an official duty,
9 or in authority of any court of law, if the sale is for the purpose of
10 saving the seller from loss or pursuant to the authority of a court.

11 (b) Persons who sell or distribute vehicles of a type subject to
12 registration *or trailers subject to identification pursuant to Section*
13 *5014.1* for a manufacturer to vehicle dealers licensed under this
14 code, or who are employed by manufacturers or distributors to
15 promote the sale of vehicles dealt in by those manufacturers or
16 distributors. However, any of those persons who also sell vehicles
17 at retail are vehicle dealers and are subject to this code.

18 (c) Persons regularly employed as salespersons by vehicle
19 dealers licensed under this code while acting within the scope of
20 that employment.

21 (d) Persons engaged exclusively in the bona fide business of
22 exporting vehicles or of soliciting orders for the sale and delivery
23 of vehicles outside the territorial limits of the United States, if no
24 federal excise tax is legally payable or refundable on any of the
25 transactions. Persons not engaged exclusively in the bona fide
26 business of exporting vehicles, but who are engaged in the
27 business of soliciting orders for the sale and delivery of vehicles,
28 outside the territorial limits of the United States are exempt from
29 licensure as dealers only if their sales of vehicles produce less than
30 10 percent of their total gross revenue from all business transacted.

31 (e) Persons not engaged in the purchase or sale of vehicles as
32 a business, who dispose of any vehicle acquired and used in good
33 faith, for their own personal use, or for use in their business, and
34 not for the purpose of avoiding the provisions of this code.

35 (f) Persons who are engaged in the purchase, sale, or exchange
36 of vehicles, other than motorcycles subject to identification under
37 this code, which are not intended for use on the highways.

38 (g) Persons temporarily retained as auctioneers solely for the
39 purpose of disposing of vehicle stock inventories by means of
40 public auction on behalf of the owners at the owners’ place of

business, or as otherwise approved by the department, if intermediate physical possession or control of, or an ownership interest in, the inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer to be used exclusively for carrying racing vehicles.

For purposes of this subdivision, “racing vehicle” means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a lessor.

(j) Any person who is a renter.

(k) Any salvage pool.

(l) Any yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code) and who sells used boat trailers in conjunction with the sale of a vessel.

(m) Any licensed automobile dismantler who sells vehicles that have been reported for dismantling as provided in Section 11520.

(n) The Director of Corrections when selling vehicles pursuant to Section 2813.5 of the Penal Code.

(o) Any public or private nonprofit charitable, religious, or educational institution or organization that sells vehicles if all of the following conditions are met:

(1) The proceeds of the sale of the vehicles are retained by that institution or organization for its charitable, religious, or educational purposes.

(2) The vehicles sold were donated to the institution or organization.

(3) They meet all of the applicable equipment requirements of Division 12 (commencing with Section 24000) and have been issued a certificate pursuant to Section 44015 of the Health and Safety Code.

(4) The institution or organization has qualified for state tax-exempt status under Section 23701d of the Revenue and Taxation Code, and federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(p) Any motor club, as defined in Section 12142 of the Insurance Code, that does not arrange or negotiate individual motor vehicle purchase transactions on behalf of its members but refers members to a new motor vehicle dealer for the purchase of a new motor vehicle and does not receive a fee from the dealer contingent upon the sale of the vehicle.

SEC. 3. Section 296 of the Vehicle Code is amended to read:

296. A “distributor” is any person other than a manufacturer who sells or distributes new vehicles subject to registration under this code, *new trailers subject to identification pursuant to Section 5014.1*, or new off-highway motorcycles subject to identification under this code, to dealers in this state and maintains representatives for the purpose of contacting dealers or prospective dealers in this state.

SEC. 4. Section 297 of the Vehicle Code is amended to read:

297. A “distributor branch” is an office maintained by a distributor for the sale of new vehicles *or new trailers subject to identification pursuant to Section 5014.1* to dealers or for directing or supervising, in whole or in part, the distributor’s representatives.

SEC. 5. Section 331 of the Vehicle Code is amended to read:

331. (a) A “franchise” is a written agreement between two or more persons having all of the following conditions:

(1) A commercial relationship of definite duration or continuing indefinite duration.

(2) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail new motor vehicles *or new trailers subject to identification pursuant to Section 5014.1* manufactured or distributed by the franchisor or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.

(3) The franchisee constitutes a component of the franchisor’s distribution system.

(4) The operation of the franchisee’s business is substantially associated with the franchisor’s trademark, trade name, advertising, or other commercial symbol designating the franchisor.

(5) The operation of a portion of the franchisee’s business is substantially reliant on the franchisor for a continued supply of new vehicles, parts, or accessories.

(b) The term “franchise” does not include an agreement entered into by a manufacturer or distributor and a person where all the following apply:

(1) The person is authorized to perform warranty repairs and service on vehicles manufactured or distributed by the manufacturer or distributor.

(2) The person is not a new motor vehicle dealer franchisee of the manufacturer or distributor.

(3) The person’s repair and service facility is not located within the relevant market area of a new motor vehicle dealer franchisee of the manufacturer or distributor.

SEC. 6. Section 331.1 of the Vehicle Code is amended to read:

331.1. A “franchisee” is any person who, pursuant to a franchise, receives new motor vehicles subject to registration under this code ~~or~~, new off-highway motorcycles, as defined in Section 436, *or new trailers subject to identification pursuant to Section 5014.1* from the franchisor and who offers for sale or lease, or sells or leases the vehicles at retail or is granted the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.

SEC. 7. Section 331.2 of the Vehicle Code is amended to read:

331.2. A “franchisor” is any person who manufactures, assembles, or distributes new motor vehicles subject to registration under this code ~~or~~, new off-highway motorcycles, as defined in Section 436, *or new trailers subject to identification pursuant to Section 5014.1* and who grants a franchise.

SEC. 8. Section 672 of the Vehicle Code is amended to read:

672. (a) “Vehicle manufacturer” is any person who produces from raw materials or new basic components a vehicle of a type subject to registration under this code, ~~or~~ off-highway motorcycles subject to identification under this code, *or trailers subject to identification pursuant to Section 5014.1, or who permanently alters, for purposes of retail sales, new commercial vehicles by converting the vehicles into housecars that display the insignia of approval required by Section 18056 of the Health and Safety Code and any regulations issued pursuant thereto by the Department of Housing and Community Development. As used in this section, “permanently alters” does not include the permanent attachment of a camper to a vehicle.*

(b) A vehicle manufacturer who produces a vehicle of a type subject to registration that consists of used or reconditioned parts, for the purposes of the code, is a remanufacturer, as defined in Section 507.8.

(c) Unless a vehicle manufacturer either grants franchises to franchisees in this state, or issues vehicle warranties directly to franchisees in this state or consumers in this state, the manufacturer shall have an established place of business or a representative in this state.

(d) The scope and application of this section are limited to Division 2 (commencing with Section 1500) and Division 5 (commencing with Section 11100).

SEC. 9. Section 4004.7 is added to the Vehicle Code, to read:

4004.7. (a) If the apportioned registration issued under Article 4 (commencing with Section 8050) of Chapter 4 for a commercial vehicle or vehicle combination that was last registered by a California resident has expired or has been terminated, the department, upon receipt of a completed application, a fee of thirty dollars (\$30), and proof of financial responsibility for the vehicle, may issue an unladen operation permit to authorize the unladen operation of that vehicle or vehicle combination for a period of not more than 15 continuous days.

(b) This section does not apply to any vehicle or vehicle combination for which any vehicle registration fees, other than those for the current year, vehicle license fees, or penalties, or any combination of those are due.

(c) Operation of a laden vehicle or vehicle combination under an unladen operation permit issued pursuant to this section is an infraction.

~~SEC. 2.~~

SEC. 10. Section 8058 is added to the Vehicle Code, to read:

8058. (a) The department shall charge interest on any underpaid fees due under this article, at the rate of 1 percent per month of the underpaid portion of the fees, commencing on the date the underpaid portion of the fees were originally due and accruing monthly until paid.

(b) Interest charged under subdivision (a) shall continue to accumulate during any disputation of the underpaid fees or any hearing regarding the underpaid fees. During any disputation or hearing, the registrant may pay the underpaid fees and other

1 charges to avoid additional interest charges and may request a
2 refund of any overpaid fees after final review.

3 (c) For any underpaid fees, the department shall impose a
4 penalty of fifty dollars (\$50) or 10 percent of the underpaid fees,
5 whichever is greater, commencing on the date the underpaid fees
6 were determined to be due.

7 (d) For the purposes of this section, “underpaid fees” include
8 additional vehicle registration, weight, and license fees found to
9 be due to this state and any other member of the International
10 Registration Plan as the result of an audit or finding of an
11 International Registration Plan carrier.

12 ~~SEC. 3.~~

13 *SEC. 11.* Section 9250.15 of the Vehicle Code is amended to
14 read:

15 9250.15. (a) In addition to any other fees specified in this
16 code, the department shall collect an administrative service fee in
17 the amount authorized under subdivision (b), for each application
18 for registration, renewal of registration, or supplement
19 apportioned registration pursuant to Article 4 (commencing with
20 Section 8050) of Chapter 4.

21 (b) The administrative service fee required to be collected
22 under subdivision (a) shall be at least the amount determined by
23 the department to be sufficient to pay membership dues to the
24 association acting as the repository for the International
25 Registration Plan under Article 3 (commencing with Section
26 8000) of Chapter 4, but may not be more than two dollars (\$2) for
27 each application.

28 (c) The money collected by the department under this section,
29 less the department’s administrative costs in collecting and
30 transmitting the money, shall be available, upon appropriation, to
31 the department for payment to the association described in
32 subdivision (b).

33 (d) Funds provided to the association under this section shall be
34 used exclusively for the administration and support of reciprocity
35 activities under the International Registration Plan.

36 ~~SEC. 4.~~

37 *SEC. 12.* Section 9259.3 is added to the Vehicle Code, to read:

38 9259.3. For each application to include an additional
39 operating area or a registration issued under Article 4
40 (commencing with Section 8050) of Chapter 4 of Division 3, the

1 department shall require a deposit in an amount determined by the
2 department to be sufficient to ensure compliance with that article.

3 ~~SEC. 5.~~

4 *SEC. 13.* Section 9259.5 is added to the Vehicle Code, to read:

5 9259.5. For each application for immediate telephone service
6 for a registration issued under Article 4 (commencing with Section
7 8050) of Chapter 4 of Division 3, the department shall impose a
8 fee in an amount determined by the department to be sufficient to
9 cover its administrative costs under this section.

10 ~~SEC. 6.~~

11 *SEC. 14.* No reimbursement is required by this act pursuant
12 to Section 6 of Article XIII B of the California Constitution
13 because the only costs that may be incurred by a local agency or
14 school district will be incurred because this act creates a new crime
15 or infraction, eliminates a crime or infraction, or changes the
16 penalty for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition of a
18 crime within the meaning of Section 6 of Article XIII B of the
19 California Constitution.

